



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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February 7, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in black ink, appearing to be "W. T. Fujioka", is written over the printed name and title.

SACRAMENTO UPDATE

Executive Summary

This memorandum provides an update on the following:

- A pursuit of position on County-sponsored legislation that would amend AB 109 (Chapter 15, Statutes of 2011) to prohibit individuals who have been previously certified as a Mentally Disordered Offender or Mentally Disordered Sexual Offender from being released from State prison or a State Hospital to county Post-Release Community Supervision.
- A report on legislation of County interest, AB 194 (Campos), related to the Brown Act, which would make it a misdemeanor for the chairperson of a local governing body to prohibit public criticism of the agency's services and related activities or the acts of the legislative body.

Pursuit of County-Sponsored Legislation

As a result of the 2011 Public Safety Realignment and AB 109 which transferred responsibility for certain offenders from the State to counties, individuals who are certified as a Mentally Disordered Offender (MDO) or a Mentally Disordered Sex

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Offender (MDSO) at the time of release from State prison are not eligible for county supervision under Post-Release Community Supervision (PRCS). However, since implementation of AB 109 in October 2011, a number of individuals who have MDO/MDSO certifications during previous prison commitments have been released to counties under PRCS. In addition, some individuals who were certified a MDO/MDSO were subsequently de-certified prior to release from State prison, while undergoing treatment at a State hospital or while on State Parole and transferred to PRCS.

According to the Probation Department, individuals who have been certified as an MDO/MDSO have severe mental health disorders, committed crimes that involved violence or grave bodily injury and were deemed to represent a substantial danger of physical harm to others. Many of these individuals have long and violent criminal histories, often become treatment and medication non-compliant, self-medicate with illicit drugs, and are often transient and very difficult to supervise.

The supervision needs and public safety implications of this population are complex. The trend of de-certification of MDO/MDSOs and transfer to PRCS is particularly troublesome. Many of these individuals have been deemed unfit for public transportation and have required the Probation Department to transport them from a State prison or State hospital, several have required immediate 5150 psychiatric evaluations and all have been assessed as ultra-high risk with multiple risk factors. Most of these individuals remain unfit for public transportation and require continued transportation services to housing and treatment facilities while on PRCS and all require intensive supervision, such as GPS surveillance, as a result of their risk level and threat to public safety.

The certification process for MDOs is rigorous and this small, but very high-risk, population requires on-going, consistent and specialized treatment services, and intensive supervision when released to the community.

The Probation Department and this office firmly believe that the transfer of de-certified MDO/MDSOs to PRCS is in conflict with the intent of the 2011 Public Safety Realignment and that State supervision remains the most appropriate level of monitoring for the high-risk and high-need MDO/MDSO population.

Therefore, consistent with Board policy to support legislation that would prohibit the State from releasing a State prison inmate to Post-Release Community Supervision under AB 109 (Chapter 15, Statutes of 2011) if that inmate has been previously designated a Mentally Disordered Offender or Mentally Disordered Sexual Offender, **the Sacramento advocates will, unless otherwise directed by the Board, actively**

pursue County-sponsored legislation to prohibit these individuals from being released to County supervision.

Legislation of County Interest

AB 194 (Campos) which, as introduced on January 28, 2013, would make it a misdemeanor for the chairperson of a legislative body of a local agency to prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body, as protected under the Brown Act.

The Brown Act requires, with certain exceptions, that all meetings of a local governing body be open and public, permitting all persons to attend and participate. In addition, the Brown Act provides that the legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body.

As introduced, AB 194 would amend provisions of the Brown Act and make it a misdemeanor for a member of a legislative body, while acting as the chairperson of a legislative body of a local agency, to prohibit public criticism. The bill would further authorize a district attorney or an interested party to commence the process to obtain judicial determination as to whether an action taken by a local governing body is in violation of this statute. Under this process, a local agency could opt to take corrective action.

In its preliminary analysis, the Executive Office of the Board indicates that AB 194 could significantly impact the Board of Supervisors and the Executive Office by encouraging members of the public to file court actions against the Chair of the Board, as well as the chairs of County commissions and committees. This could lead to major difficulties in managing open meetings in an appropriate and timely fashion. In addition, the Executive Office notes that AB 194 may also pose a serious problem in persuading citizen volunteers on County commissions and committees to serve as chairs of their respective legislative bodies once they are aware that they could become the subject of criminal prosecution.

This office and County Counsel concur with the concerns posed by the Executive Office of the Board. In addition, County Counsel notes that the proposed language is overbroad and inconsistent with other Government Code sections. For example, under AB 194, a chair could be guilty of a misdemeanor for imposing a time limit on a speaker who is criticizing the board even if the chair is justly imposing a content-neutral time limit. County Counsel also notes that the bill's proposed language is also overbroad in that it imposes a misdemeanor with no exceptions, and we concur.

Each Supervisor
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AB 194 is currently in the Assembly pending referral to committee.

This office will continue to monitor and work with the Executive Office of the Board, County Counsel and other departments, such as the District Attorney, to prepare a comprehensive analysis and report back to the Board with recommendations.

We will continue to keep you advised.

WTF:RA
MR:KA:IGEA:ma

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
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